



Town of Hudson

Zoning Board of Appeals

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Zoning Board of Appeals Meeting Minutes — March 9, 2023

Pursuant to Chapter 107 of the Acts 2022 extending remote meeting provisions of Governor Baker's March 12, 2020, Executive Order suspending certain provisions of the Open Meeting Law, this meeting of the Hudson Zoning Board of Appeals was conducted fully-remote via Zoom.

Chair Schafer called the meeting to order at 7:03 PM. She noted that the Board is convening remotely under the extension of the suspension of certain provisions of the Open Meeting Law relative to COVID-19. Before moving into the public hearings, she reminded the Board and meeting attendees that all votes will be taken as roll call voice votes and provided an overview of the meeting flow and how/when members of the public can participate.

Chair Schafer called the roll:

Board Members Participating:

Jill Schafer, Chair
Jason Mauro, Vice Chair
Matt Russell, Clerk (left meeting at 8:45)
Darja Nevits, Member
Antonio Mancini, Jr., Member
Ronald Sorgman, Associate Member
David Campbell, Associate Member
Justin Maillet, Associate Member

Staff Members Participating:

Kristina Johnson, Director of Planning and
Community Development
Katie Evangelisti, Administrative Manager of
Planning and Community Development

Chair Schafer stated they are switching the order of agenda, 20 Old Bolton Road to be heard first, then pick back up with the 17 School Street hearing, the next item on the agenda.

Public Hearing – Petition 2023-02 – 20 Old Bolton Road (new public hearing)

Chair Schafer read the public hearing notice into the record. At this time the Board of Appeals will hear the request of Wanderley and Marellen DePaula requesting a Special Permit pursuant

to Section 5.3.2.1 (i) to convert an existing single-family dwelling into a two-family dwelling. The subject property is located at **20 Old Bolton Road** in the SA-8 Single Family Zoning District Assessors' Map 5 Parcel 26.

Clerk Russell read the right of appeal. Chair Schafer noted the applicant was not present and had submitted a formal continuance request, via email, which Chair Schafer read into the record.

A motion was made by Member Darja Nevits, seconded by Clerk Matt Russell, to continue the public hearing without public testimony per the applicant's request, to be heard at the April 13, 2023 meeting. By voice roll call vote: Jason Mauro, Vice Chair: **yea**; Matt Russell, Member: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; David Campbell, Associate Member: **yea**; Justin Maillet, Associate Member: **yea**. 7-0-0. Unanimous.

Chair Schafer noted since this matter was continued, the next matter to be heard would be 17 School St., which Darja Nevits would sit as chair for.

Public Hearing – Petition 2022-13 – 17 School Street (Continued from 2/9/2023)

Acting Chair Nevits reopened the petition reiterating the need for a Special Permit and a Variance and how it fits under the Zoning By-laws. The floor was turned over to the attorney for the petitioner, Jose (Joe) Moreira, Moreira & Frias. Attorney Moreira reviewed the original petition, proposing a conversion from a commercial restaurant to a residential six (6) unit building.

Acting Chair Nevits turned the floor over to Attorney for the petitioner asking to advise on how they can proceed with this hearing. Attorney Moreira proceeded to address the proposed application, recapping the prior meetings' information. Attorney Moreira described the surrounding buildings, mostly all multi-residential buildings. Attorney Moreira reviewed the required findings for the variance to be granted, stating a hardship due to what is already built on the lot in relation to the lot size and what would be financially feasible with unit quantities and "reasonable sized" units. After a lengthy presentation, reiterating the no new information Acting Chair Nevits asked how two (2) or four (4) units would cause financial hardship. Attorney Moreira informed the board that the cost associated with making any less than six (6) units will not be financially feasible, as the demographic of tenants will not be willing to pay higher costs for larger units. He referenced a market valuation submitted and presented to the board, reflecting average costs in Hudson for comparable condos.

Acting Chair Nevits inquired as to the other requirements for the variance regarding open space and landscaping, Engineer Joe Peznola, Hancock Associates, addressed the board, reviewing the current plan, and addressing open space, parking, and amenities. Mr. Peznola also advised the board that decreasing the units would not be financially feasible for interested renters but also the petitioner. Jill Schafer asked about finding number one of the variance in regards to the hardship, and she is in agreement there is a hardship in regards to use but not how the correlation of the hardship being present provides standing for the number of units being proposed. Vice Chair Mauro raised his concern as the petitioner seemed to use the square footage both as a supporting argument in one aspect and an unsupportive argument in another. He doesn't feel there is a hardship of the square footage difference between 6 or fewer units based on the presented ROI, especially considering the need for parking across the

street if the six units are approved. Acting Chair Nevits readdressed the board as to the use variance, as it's a pre-existing non-conforming, and all concurred – the only concern was the 5.2.3.4 variance findings and lack of evidence to provide hardship. Clerk Russell agreed the use is better, however, the presented economics aren't providing proof of hardship. Member Mancini agreed the ROI is not a valid reason for a variance, the use makes sense as stated by other members. All of the board members provided their opinions on the petition, all agreed that possibly a four (4) unit proposal would be more likely to be approved, as it would also remove the required parking from the adjacent lot. Mr. Peznola advised the board he had just received communications from the petitioner stating that decreasing the units to four would be acceptable to him. The board was polled all agreed that if they can revise the plans and could provide a stronger argument for a financial hardship they would be more inclined to grant the variance.

Melissa Amaral, on behalf of the applicant, addressed the board to provide her input as a parent as well. She felt that due to the lack of yard and amenities, it would not be appealing for a large four-bedroom unit, it would be more likely for a family with small children to be more inclined to desire a smaller three (3) bedroom unit.

Attorney Moreira suggested a continuance to review the suggested changes and submit a new four (4) unit plan for the board at the next hearing.

Acting Chair Nevits, seconded by Clerk Russell, made a motion to continue the public hearing of 17 School Street to April 13, 2023. By voice roll call vote: Jill Schafer, Chair: **yea**; Jason Mauro, Vice Chair: **yea**; Matt Russell, Member: **yea**; Tony Mancini Jr., Member: **yea**; Darja Nevits, Member: **yea**. 5-0-0. Unanimous.

Petition 2023-03 569 Main Street (new public hearing)

Chair Schafer opened the public hearing by reading the public hearing notice into record. At this time the Board of Appeals will hear the request of Most Noble LLC to amend a Special Permit issued on May 14, 2015, to construct a 14,000-square-foot, single-story expansion to the existing 18,000 square-foot building pursuant to Section 3.3.10.1 of the Hudson Zoning By-laws (Watershed Protection District) and a variance from Section 6.2.1.3 of the Hudson Zoning By-laws for the reduction in the minimum open space requirement. The subject property is located at **569 Main Street** in the M-6 Industrial District, Assessors' Map 35 Parcel 36. Clerk Russell read the right of appeal.

Attorney Peter Barbieri, Fletcher Tilton, was present on behalf of the applicant to present the plans and petition. Attorney Barbieri briefly reviewed the prior Special Permit issued on the site, the Planning Boards' site approval, and the updating of the stormwater drainage system, and all comply and are conforming. They are currently before the board for a Variance from the dimensional requirements for open space. 32.6% open space is what the current plan provides and the Variance from the 35% is what is being sought. The applicant is looking to expand the property's warehouse building size, due to the parking requirements and the inability for them to expand up, they need to expand outward.

Chair Schafer, in regard to the Special Permit, there were two memos received, one from the Board of Health ("BOH") and one from the Department of Public Works ("DPW"). O&M was requested by DPW, Chair Schafer questioned if the comments were made for a Site Plan review or a Special Permit. Ms. Johnson advised the board that the Watershed Protection

District by-law requires the BOH, DPW, and Conservation Commission to provide comments, since they were already provided under the Planning Board's Site Plan Review they are just duplicating prior comments previously addressed. Chair Schafer wanted to confirm that there is no actual amendment to the 2015 Special Permit, due to the Special Permit lapsing. The Special Permit would have to be reissued with the conditions being the comments from the three boards.

Onto the Variance request, only for the Open Space from 35% to 32.6%, roughly 2,400 square feet. Dan Olsen, Owner/Applicant, addressed the board and explained the current flow of the lot and a brief description of why they wouldn't be able to expand in a lesser area or different areas. Member Nevits raised the issue of self-imposed hardship for the variance, as the addition is what is causing the need for the variance. Attorney Barbieri reiterated to the board that the need for the additional space will allow Most Noble, LLC. to stay in Hudson, but the upgrades of the land have already cost Most Noble a substantial amount of money. Member Nevits asked if the addition could have a second floor allowing additional space. The issue with any of the buildings being a two-story is the machine equipment being able to be lifted or stored that high, it cannot be done. Associate Member Mancini recommended looking into pervious pavers for the required additional employee parking spaces. If that was done correctly the applicant could potentially have the twelve (12) additionally required parking spaces close the gap in the open space percentage distance if not removed it. Attorney Barbieri suggested continuing the hearing to allow the applicant to look further into this. Since the comments from the BOH and DPW were received so late it was suggested to address those for the next hearing as well.

Vice Chair Mauro, seconded by Member Nevits, made a motion to continue the public hearing of 569 Main Street to April 13, 2023. By voice roll call vote: Jason Mauro, Vice Chair: **yea**; Matt Russell, Member: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; Dave Campbell, Associate Member: **yea**; Justin Maillet, Associate Member: **yea**. 7-0-0. Unanimous.

Petition 2023-04 197-205 Washington Street (new public hearing)

Chair Schafer opened the public hearing by reading the public hearing notice into record. At this time the Board of Appeals will hear the request of RK Realty Association, LLC to obtain a variance from Section 6.2.2.1 of the Hudson Zoning By-laws to allow for the construction of a free-standing bank ATM within the front setback. The subject property is located at **197-205 Washington Street** in the C-11 Commercial Zoning District. Vice Chair Mauro read the right of appeal.

Attorney Christopher Yates, Fletcher Tilton, was present for the applicant to present the plans and petition. Site Engineer Randy Miron, Bohler Engineering, and David Baker, on behalf of RK Centers, were present as well. Attorney Yates gave a brief history of RK Realty and the property history located at 197-205 Washington Street. David Baker, RK Centers, provided the board with a history of the road expansion of Washington Street. The road widening project was a shared cost by MA Highway, the Town of Hudson, and RK Centers. For completion of the project RK Centers donated frontage to the widening project to allow for Washington Street to go from a two-lane road to a four-lane road. Randy Miron, Site Engineer addressed the board to review the site plan. He reviewed the parking spaces being removed to allow for the

freestanding ATM. He also reiterated what was previously mentioned that prior to the road widening the 30' setback would be met, while now there will only be a 14' setback.

Chair Schafer, seconded by Vice Chair Mauro, to enter deliberative session. By voice roll call vote: Jason Mauro, Vice Chair: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; Dave Campbell, Associate Member: **yea**; Justin Maillet, Associate Member: **yea**. 6-0-0. Unanimous.

During the deliberative session Member Nevits reiterated that the placement of the proposed ATM in any other location would have diminished substantially more parking spaces. This specific location requires only the removal of nine (9) parking spaces, continuing compliance with zoning.

Chair Schafer, seconded by Member Mancini, made a motion to approve the variance due to circumstances from road taking. That the literal enforcement of the by-law would involve substantial hardship, loss of parking spaces, and the loss of potential economic viability. The proposed ATM bank would be a positive for the plaza and relief may be granted without substantially derogating from the intent of the by-law.

By voice roll call vote: Jill Schafer, Chair: **yea**; Jason Mauro, Vice Chair: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**. 5-0-0. Unanimous.

Chair Schafer, seconded by Member Nevits to come out of deliberative. By voice roll call vote: Jason Mauro, Vice Chair: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; Dave Campbell, Associate Member: **yea**; Justin Maillet, Associate Member: **yea**. 6-0-0. Unanimous.

Approval of 2/9/2023 Minutes

Chair Schafer seconded by Member Mancini moved to approve the meeting minutes of February 9, 2023. By voice roll call vote: Jason Mauro, Clerk: **yea**; Darja Nevits, Member: **abstain**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; David Campbell, Associate Member: **yea**; Justin Maillet: **yea**. 5-0-1 Motion Passed.

Adjournment

Member Nevits seconded by Vice Chair Mauro moved to adjourn the meeting at 9:39 PM. By voice roll call vote: Jason Mauro, Clerk: **yea**; Darja Nevits, Member: **yea**; Tony Mancini Jr., Member: **yea**; Ron Sorgman, Associate Member: **yea**; David Campbell, Associate Member: **yea**; Justin Maillet: **yea**. 6-0-0 Unanimous.